

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEANDER GREEN,
Plaintiff(s),

No. C 05-1514 MEJ

vs.

ORDER RE: STAIR INSPECTION

UNITED STATES,
Defendant(s).

The Court is in receipt of the parties' joint letter, filed May 19, 2006, concerning plaintiff Leander Green's request to inspect the stair on which he slipped at defendant United States' Oakland postal facility. Although Plaintiff's safety engineer, Dr. Robert Liptai, inspected the stair in November 2003, he subsequently passed away in December 2005. Since the time Dr. Liptai inspected the stair, the postal facility covered it with a slip resistant tape, whereas at the time of the slip it was bare metal. Plaintiff seeks permission to have his expert remove a two-to-three square inch portion of the tape to test the bare metal. After testing, Plaintiff's expert will restore the stair with a commercial grade anti-skid material, or alternatively Plaintiff will pay the Postal Service to replace the anti-skid material. Although Dr. Liptai tested the bare metal in 2003, Plaintiff argues that a gap in Dr. Liptai's notations could render an opinion based on his information susceptible to a *Duabert* challenge.

In response, Defendant argues that it is unclear why Plaintiff's current expert is unable to rely on previous expert's testing given that the safety engineer in 2003 performed the same tests. Defendant further argues that if the Court permits Plaintiff's expert to remove the tape, it should also

